
Vasilios Athanasiou and Others against Greece /Manios against Greece (and 189 similar cases)

Excessive length of administrative proceedings in Greece and lack of an effective remedy

General measures for the execution of the judgments of the European Court

Memorandum prepared by the Department for the Execution of Judgments of the European Court of Human Rights.

The opinions expressed in this document are binding on neither the Committee of Ministers or the European Court.

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Introduction

1. The [Manios group of cases \(190 cases\)](#) concerns violations of the right to a fair trial due to the excessive length of proceedings before administrative courts and the Council of State and of the right to an effective remedy in this respect (violations of Articles 6§1 and 13). The Committee of Ministers has been following the general measures required since 2004 (see Interim Resolution CM/ResDH(2007)74).
2. The European Court applied the pilot judgment procedure in the case of Vassilios Athanasiou and Others for the first time with regard to Greece. It identified a structural problem regarding the length of administrative proceedings, confirmed by the fact that more than 200 cases - 100 of which concerned proceedings before administrative courts - were at the time pending before the Court. The Court set a specific deadline for the introduction of an effective remedy or a combination of remedies at national level in compliance with the criteria set in its case-law. At the same time, it decided to continue the examination of similar cases pending before it.

General Measures

3. In response to the abovementioned judgment, the Greek authorities enacted Law No. 4055/2012, which came into force on 2.4.2012. The provisions of the law concerned both reducing the length of administrative proceedings and introducing two remedies (acceleratory and compensatory) in cases of excessive length of administrative proceedings.

A) Remedies established

4. After the adoption of the law an application was lodged with the Court (TECHNIKI OLYMPIAKI A.E. No. 40547/10) concerning the excessive length of an administrative procedure already concluded at the time of lodging the application, and while the new remedy was in force.

5. In a decision of 01.10.2013, the European Court declared the application inadmissible for non-exhaustion of domestic remedies after having examined the effectiveness of the new remedies. The Court concluded as follows:

As regards the acceleratory remedy

6. The acceleratory remedy aims at speeding up administrative proceedings at the request of any litigant, where 24 months have elapsed since the originating application was lodged.

7. The European Court held that the remedy is effective and will have an impact on the overall length of administrative proceedings, either by speeding it up or by preventing it from lasting an unreasonably long time. The Court noted that the competent judicial body grants the acceleration after taking into consideration, among other factors, the delays in the proceedings at the different levels of jurisdiction or during the earlier stages, as well as the caseload of the court. The Court took the view that it would not be unreasonable to take into consideration factors relating to the specific case in question in order to ensure some degree of flexibility.

As regards the compensatory remedy

8. The European Court held that the compensatory remedy is in line with the Court's case law as regards the criteria used in assessing the reasonableness of the duration of the proceedings. It noted that these criteria were applied in the first judgments given by the Council of State and the administrative court of appeals of Athens on the new compensatory remedy.

9. The Court also held that the provisions of the law did not give rise to concern as regards:
 - a) the impartiality of the deciding judicial body;

- b) the need to address a different application at every level of jurisdiction, after the termination of the proceedings at this level of jurisdiction;
- c) the starting point of the time-limit to lodge an application;
- d) the time-limit applicable to the procedure for claiming compensation;
- e) the legal costs;
- f) the criteria applied in the calculation and payment of the compensation.

B) Measures aiming at accelerating administrative proceedings

10. A number of measures have been introduced by Laws Nos. 3659/2008, 3772/2009 and No. 3900/2010 as mentioned in the Committee of Ministers' decision adopted at the 1136th DH meeting. Since then, amendments have also been introduced by Law no 4055.2012. These are summarised below:

Reinforcement of human resources

The number of posts for administrative judges at all levels of jurisdiction was increased.

Council of State's caseload reduction

- Remedies lodged with the Council of State, which fall in the competence of other administrative courts are transferred to the competent court by an act of the president of the Council of State and not by decision of a committee as provided until the enforcement of L. 4055/2012;
- A number of cases previously coming under the jurisdiction of the Council of State have been transferred to other administrative courts;
- Grounds of appeal in cassation before the Council of State were restricted resulting in a decrease of 42,22% of the appeals in cassation lodged in 2012.

Streamlining of the procedure in administrative courts

- The 'model trial' was introduced. According to this procedure, the Commissioner before the administrative courts and/or the litigants can require that cases raising important legal issues, which affect a large number of similar cases, are heard as a matter of priority by the Council of State. If the request is granted the examination of the similar cases is suspended and, after the Council of State's judgement, all similar cases are processed in a fast-track procedure;
- Grouping of cases;
- The hearing of a case can be adjourned only once, where the administration has not sent the file of the case to the court;
- The Council of State and the administrative courts can decide on the admissibility of cases in a simplified speedy procedure before making a decision on the merits;
- A single-judge system was introduced in the courts of appeals and cases were redistributed between single-judge and multi-judge first instance courts.

Streamlining of the procedure related to tax disputes

Specific measures were introduced to this effect. For example, tax and customs disputes exceeding 150,000 EUR shall be decided directly by administrative court of appeals. Special sections which have jurisdiction over tax related cases were set up in administrative courts.

Information technology

Information technologies have been introduced regarding lodging and registration of all kind of remedies addressed to administrative courts, as well as submission of files and delivery of certificates and other documents.

Conclusion

11. The Greek authorities responded to the pilot judgment rendered in the *Athanasiou* case by establishing two remedies (acceleratory and compensatory) which were deemed effective by the Court.

12. As regards the substantive measures introduced to shorten the length of administrative proceedings, the authorities indicated, in their initial action plan, that a first set of satisfactory results were obtained within 8 months after the entry into force of law 3900/2010. In their additional action plan, the authorities indicate that the implementation of law 4055/2012 resulted in a decrease of the workload of the Council of State. However, additional information is needed to show that this positive trend has been consolidated. This information should focus on the concrete impact (with additional detailed statistical data) of the substantive measures taken to reduce the length of proceedings before the administrative courts and the Council of State.

13. In the light of the measures adopted and under way, it is therefore proposed to transfer these cases under standard procedure.